

PHYSICIANS MUTUAL )  
INSURANCE COMPANY, )  
 )  
Plaintiff, )  
 )  
vs. ) Case No. 4:06CV766 CDP  
 )  
MISSOURI PHYSICIANS )  
MUTUAL, )  
 )  
Defendant. )

Physicians Mutual Insurance Company (PMIC) alleges that Missouri Physicians Mutual (MPM) has violated federal, state, and common law through the unauthorized use of the trademark “Physicians Mutual.” MPM now moves to dismiss Count V of the complaint, which alleges a violation Missouri’s Merchandising Practice Act, Mo. Rev. Stat. § 407.010, et seq. PMIC has not responded to MPM’s motion, and its time for doing so has expired.

Missouri’s Merchandising Practice Act does not apply to “[a]ny institution or company that is under the direction and supervision of the director of the department of insurance.” Mo. Rev. Stat. § 407.020.2(2). It is undisputed that MPM is an insurance company organized and licensed under Missouri law, and therefore is supervised and regulated by Missouri’s Director of Insurance. Mo. Rev. Stat. §

383.010, et seq. Accordingly, PMIC's Merchandising Practice Act claim against MPM must be dismissed.

For the foregoing reasons,

**IT IS HEREBY ORDERED** that defendant Missouri Physicians Mutual's motion to dismiss Count V of the complaint [# 10] is granted.

A handwritten signature in cursive script, reading "Catherine D. Perry", is written above a horizontal line.

CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 31st day of July, 2006.